

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR S-03-0104 MCE GGH P

vs.

CY IRVING BROWN,

Movant.

ORDER

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Movant, a federal prisoner proceeding pro se, has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. In his § 2255 motion, movant raises three grounds whereupon he alleges his constitutional rights were violated: 1) trial court error and abuse of discretion in failing to substitute court appointed counsel; 2) ineffective assistance of trial counsel; 3) ineffective assistance of appellate counsel. Motion, p. 5. This court directed a response from respondent, by Order, filed on December 4, 2007, within thirty days, to which an extension of time until March 4, 2008, was granted by Order, filed on January 8, 2008.

On February 26, 2008, respondent filed a “motion for an order finding waiver of attorney client privilege, unsealing court documents, and requiring disclosures from prior counsel.” By Order, filed on March 10, 2008, movant was directed, within thirty days, to file either an opposition to respondent’s motion to waive the attorney client privilege or to stipulate

1 to a waiver of attorney client privilege regarding specified areas and/or to the unsealing of certain  
2 sealed documents.

3 Movant has filed no response whatsoever to the order, and the time for doing so  
4 has expired. Therefore, the court FINDS that the defendant's motion to vacate, set aside,  
5 or correct sentence has waived privilege over his prior communications with attorneys Fred  
6 Dawson, Esq. and John Balazs, Esq., only with respect to the issues raised in the § 2255 motion,  
7 and ORDERS:

8 1. The Clerk to unseal all portions of the transcripts of the November 20, 2003  
9 and December 9, 2003 proceedings in this case;<sup>1</sup>

10 2. Attorneys Dawson and Balazs, within twenty days, to transmit to counsel for  
11 the United States all documents related to their communications with Defendant Brown;

12 3. Attorneys Dawson and Balazs, within twenty days, to assist counsel for the  
13 United States by submitting for interviews as reasonably requested by the United States  
14 concerning their communications with Defendant Brown and their work on this case.

15 4. Respondent to be permitted a further extension of time of forty-five days from  
16 the date of this order to file an answer.

17 5. The Clerk of the Court to serve this order upon, in addition to the parties in this  
18 action, Attorneys Dawson and Balazs.

19 DATED: 05/15/08

/s/ Gregory G. Hollows

20 GREGORY G. HOLLOWS  
21 UNITED STATES MAGISTRATE JUDGE

22  
23 GGH:009  
24 brow0104.mtn

25 <sup>1</sup> Judge England's referral of the adjudication of this § 2255 motion to this U.S. Magistrate  
26 Judge signifies that the undersigned has the requisite jurisdiction to vacate sealing orders and find  
waiver with respect to the underlying criminal proceedings.